



January 12, 2024

***SENT VIA E-MAIL***

FOIA Public Liaison  
U.S. Department of Education  
Office of the Executive Secretariat  
FOIA Service Center  
400 Maryland Avenue, SW, LBJ 7W106A  
Washington, DC 20202-4536  
EDFOIAManager@ed.gov  
Robert.wehausen@ed.gov

Re: Freedom of Information Act Request Regarding Grand Canyon University  
FOIA Request No. 24-00550-F

Dear FOIA Public Liaison:

The Goldwater Institute (“Institute”) submitted a public records request to the U.S. Department of Education (“DOE”) through its online portal on December 4, 2023. Attachment 1. On December 5, 2023, we received a response from the ED FOIA Service Center, Office of the Secretary, acknowledging the request and assigning our request the number, 24-00550-F. Attachment 2. The letter also advised that the current average request processing time is 185 business days.

On December 6, 2023, the Institute sent a letter to the DOE outlining our position that the December 5 letter did not state any unusual circumstances that would permit an extension. Attachment 3. As such, the Institute would seek legal action if the agency did not provide a response within the statutory deadline. On December 22, 2023, the Institute received a letter from the DOE granting our fee waiver request. Attachment 4. To date, we have not received a determination regarding production of the requested records within the statutory timeline, nor have we received any response to our December 6 letter.

We reiterate our position stated in our December 6 letter. An agency response is due within 20 days after a public records request is made. 5 U.S.C. § 552(a)(6)(A)(i). The response notifies the requestor of the agency’s determination, whether the agency will comply with the request. *Id.* Alternatively, the agency may give notice of the unusual circumstances requiring an extension to respond to the request. *Harjo v. U.S. Citizenship & Immigr. Servs.*, 811 F.3d 1086, 1092 (9th Cir. 2016). See also 5 U.S.C. 552(a)(6)(A), (B)) (the notice regarding unusual circumstances is limited to

FOIA Public Liaison

January 12, 2024

Page 2 of 2

certain definitions and requires a date when a determination is expected). When the DOE fails to comply with these time limits, it constitutes exhaustion of the requester's administrative remedies. 34 C.F.R. § 5.21(c). *See also Harjo*, 811 F.3d at 1092 (when an agency fails to give a determination within the statutory timeframe, the requester can proceed directly to district court); *Jud. Watch, Inc. v. U.S. Dep't of Homeland Sec.*, 895 F.3d 770, 775 (D.C. Cir. 2018) (exhaustion is excused when the agency fails to make a timely determination).

It has now been over **26 business days** since the DOE acknowledged receipt of the Institute's records request.

The DOE's determination was not received within the statutory timeline. As such, the Institute has exhausted its administrative remedies. We intend to pursue all legal remedies available, including bringing an action in U.S. District Court to compel production.

If the records are not produced within **seven (7) days** from the date of this letter, we will seek to compel production.

If you have any questions about this request or foresee any problems in fully releasing the requested records please contact me as soon as possible, I can be reached at (602) 465-5000 or [sskankey@goldwaterinstitute.org](mailto:sskankey@goldwaterinstitute.org).

Sincerely,

Stacy Skankey  
Staff Attorney  
Scharf-Norton Center for Constitutional Litigation  
at the Goldwater Institute



December 4, 2023

***SENT VIA E-MAIL & U.S. MAIL***

U.S. Department of Education  
Office of the Executive Secretariat  
FOIA Service Center  
400 Maryland Avenue, SW, LBJ 7W106A  
Washington, DC 20202-4536  
ATTN: FOIA Public Liaison

Re: Freedom of Information Act Request Regarding Grand Canyon University

Dear FOIA Public Liaison:

On behalf of the Scharf-Norton Center for Constitutional Litigation at the Goldwater Institute (the “Goldwater Institute”) and pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, this correspondence is a request for records, regardless of format, medium or physical characteristics.

Specifically, we seek the following documents and records:

- (1) Copies of all email communications between the individuals identified below pertaining to the Federal Student Aid’s (“FSA”) or the U.S. Department of Education’s (“DOE”) investigation and fine of Grand Canyon University (“GCU”) for alleged violations of the Higher Education Act and/or federal regulations, as well as GCU’s Provisional Program Participation Agreement, from January 1, 2021 to the date of this request:
  - a. Richard Cordray
  - b. Christopher Madaio
  - c. Kristen Donoghue
  - d. Susan Crim
  - e. Lina Khan
  - f. Michael Tankersley
  - g. Rohit Chopra
- (2) Copies of records that indicate the total number of complaints submitted by members of the public to the DOE pertaining to GCU’s disclosure of the cost of its doctoral programs from January 1, 2020 to the date of this request.

FOIA Public Liaison

December 4, 2023

Page 2 of 2

Electronic production of records and information is acceptable. If the records are produced electronically, please include all associated metadata. If you refer me to a website containing responsive records, please specify the precise web address where they may be found.

Please note that the Goldwater Institute is a not-for-profit 501(c)(3) organization. As such, no responsive records will be used for commercial purposes.

We are willing to pay fees for this request up to three hundred dollars (\$300.00). If you estimate that fees will exceed this amount, please inform me first.

I request your response within the statutory timeframe of twenty (20) business days. If you are unable to complete the request within that time, please contact me with your progress and expected completion date. The Goldwater Institute regularly disseminates information to the public. Given the critical and timely public importance of the activities of the federal government raised in this FOIA request, we request expedited production.

Please mail the responsive records to the mailed address above or e-mail address below.

If you deny access to any of the above public records, please provide forthwith a written statement of the express grounds for the denial, citing the law or regulation under which access is denied.

If you have any questions about this request or foresee any problems in fully releasing the requested records please contact me as soon as possible, I can be reached at (602) 465-5000 or [sskankey@goldwaterinstitute.org](mailto:sskankey@goldwaterinstitute.org).

Sincerely,



Mrs. Stacy Skankey  
Staff Attorney  
Scharf-Norton Center for Constitutional Litigation  
at the Goldwater Institute



## UNITED STATES DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Freedom of Information Act (FOIA) Service Center

## FOIA REQUEST FORM

Use this form to request U.S. Department of Education records/information. Submit completed form and documentation via email: EDFOIAManager@ed.gov; fax 202-401-0920; or mail to U.S. Department of Education, Office of the Secretary, 400 Maryland Avenue, SW, LBJ 7W106, Washington, DC 20202-0121, Attn: FOIA Public Liaison.

## REQUESTER INFORMATION

Title	Ms.	First Name	Stacy	M.I.		Last Name	Skankey
Business Name	Goldwater Institute			Title	Staff Attorney		
Address	500 E Coronado Rd				Bldg/Apt#		
City	Phoenix			State	AZ	Zipcode	85004
Phone Number	602-462-5000		Fax Number	602-256-7045		Email	sskankey@goldwaterinstitute.org

## Requester Description

- ☐ An individual seeking information for personal use.
- ☐ Affiliated with a private corporation and seeking information for use in the company's business.
- ☐ A representative of the news media/press and this request is made as part of news gathering and not for commercial use.
- ☒ Affiliated with a public interest group and this request is not for commercial use.
- ☐ Affiliated with an educational or noncommercial scientific institution and this request is for a scholarly purposes.
- Provide a description of the scholarly purpose the requested documents support.
  - If the scholarly purpose is currently funded by the Department of Education, provide funding numbers and award name.
  - If the documents requested are to increase the possibility of receiving a grant or contract to conduct a scholarly purpose, then the purpose of the request is commercial.

Comments (i.g. media agency, description of scholarly purpose)

Not-for-profit 501(c)(3) organization. No responsive records will be used for commercial purposes

**Description of documents that are being requested.** Be as specific as possible with regard to names, dates, places, events, subjects, etc. If known, you should include any file designations or descriptions for the records that you are requesting.

Please see the attached letter

**FEES AND FEE WAIVERS**

- ☐ I agree to pay all applicable fees. *(To view the fee structure, visit: <http://www2.ed.gov/policy/gen/leg/foia/fees.html>)*
- ☐ I request a waiver or reduction of fees.  
*(To view the criteria for fee waivers, visit: <http://www2.ed.gov/policy/gen/leg/foia/fee-waiver.html>)*
- ☒ Enter a specified amount which you agree to pay. I understand I will be notified if the estimated cost exceeds the specified amount I provided. *(Note: The Department does not charge for request which total \$25 or less.)*

**EXPEDITED PROCESSING**

If you are requesting expedited processing, choose the appropriate rationale for your request below.

- ☐ Failure to obtain requested records could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. Additionally, if immediate use of the FOIA is shown to be critical (as opposed to a mere allegation) to the preservation of a substantial right that fact may also be considered.

**Explain**

- ☒ Request made by a person primarily engaged in disseminating information and there is an urgency to inform the public concerning actual or alleged Federal Government activity (this option available ONLY for requesters primarily engaged in disseminating information).

**Explain**

See attached letter

**ADDITIONAL COMMENTS****Additional Comments****Privacy Act Statement:**

**AUTHORITY:** 5 U.S.C. 301, Departmental Regulations and 5 U.S.C. 552, Freedom of Information Act (FOIA).

**PURPOSE:** to allow individuals to file electronic FOIA requests; to track all FOIA requests from receipt to response to compile statistics for the Annual FOIA Report; to research and respond to FOIA requests; to maintain case files to comply with records disposal requirements; and to maintain an administrative record to support any litigation.

**ROUTINE USE:** Requests are received, assigned a case number, routed to the appropriate office or organization for research and response, and filed in a case file. Requests that are transferred, receive a no records response, or granted in full are retained for 2 years and then destroyed. Requests that are denied in whole or in part are retained for 6 years then destroyed.

**DISCLOSURE:** Voluntary. We seek your full name and postal mailing address so we may mail a response to you. Failure to provide this information may result in your request not being processed (this page does not capture email addresses).

Information collected by this form is also used for trend analysis and may be shared with law enforcement personnel. Information submitted may be retained indefinitely.



**United States Department of Education**

Office of the Secretary

FOIA Service Center

December 5, 2023

Stacy Skankey  
Staff Attorney  
Goldwater Institute  
500 E Coronado Rd  
Phoenix, AZ 85004

RE: FOIA Request No. 24-00550-F

Fee Waiver Requested: No

Expedited Processing Requested: Yes

Dear Stacy Skankey:

This is an acknowledgment of your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated December 4, 2023, and received in the Department of Education's (Department) FOIA Service Center (FSC) on December 5, 2023. You requested the following:

"Specifically, we seek the following documents and records:

(1) Copies of all email communications between the individuals identified below pertaining to the Federal Student Aid's ("FSA") or the U.S. Department of Education's ("DOE") investigation and fine of Grand Canyon University ("GCU") for alleged violations of the Higher Education Act and/or federal regulations, as well as GCU's Provisional Program Participation Agreement, from January 1, 2021 to the date of this request:

- a. Richard Cordray
- b. Christopher Madaio
- c. Kristen Donoghue
- d. Susan Crim
- e. Lina Khan
- f. Michael Tankersley
- g. Rohit Chopra

(2) Copies of records that indicate the total number of complaints submitted by members of the public to the DOE pertaining to GCU's disclosure of the cost of its doctoral programs from January 1, 2020 to the date of this request."

Please review the Additional Information section below to learn if we need additional clarification and/or documentation in order to continue processing your request. **If no additional information is needed, nothing more is required from you at this time.** If we do require supplemental information, you have ten business days to respond. If you do not respond within this time frame, we will administratively close your case. An administrative

closure is not a denial of your request and does not preclude you from making requests in the future.

Please be advised that the current average request processing time is 185 business days. If you have any questions, please contact the FSC at 202-401-8365 or [EDFOIAManager@ed.gov](mailto:EDFOIAManager@ed.gov). You may also check the status of your request at <https://foiaexpress.pal.ed.gov/app/CheckStatus.aspx>.

#### Additional Information

No additional information is needed at this time. However, we will contact you if, in the future, any additional information is needed in order to complete our search for documents.

#### Fees and Expedited Processing

There are currently no fees associated with this request. If we determine that a fee assessment is necessary, we will provide you with a fee estimate and the status of your requester category. If you requested a fee waiver and we determine a fee assessment is necessary, we will include our determination along with the fee estimate.

Your request for expedited processing is denied because you do not qualify under one of the two required categories: (1) Circumstances in which the lack of expedited treatment could pose an imminent threat to life or physical safety, or (2) You are a person primarily engaged in disseminating information and there exists an urgency to inform the public concerning actual or alleged Federal Government activity.

#### Additional Assistance

You have the right to seek assistance and/or dispute resolution services from the Department's FOIA Public Liaison or the Office of Government Information Services (OGIS). The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes. OGIS, which is outside the Department, offers ombuds services, including dispute resolution, to assist FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Please note, OGIS's assistance does not replace the administrative appeal process described below. You may contact the FOIA Public Liaison or OGIS at:

FOIA Public Liaison  
Office of the Secretary  
U.S. Department of Education  
400 Maryland Ave., SW, LBJ 7W104  
Washington, DC 20202-4500



Email: [robert.wehausen@ed.gov](mailto:robert.wehausen@ed.gov)

Phone: 202-205-0733

Fax: 202-401-0920

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road, OGIS  
College Park, MD 20740-6001  
Email: [OGIS@nara.gov](mailto:OGIS@nara.gov)  
Phone: 202-741-5770 or 1-877-684-6448

If expedited processing and/or a fee waiver was requested and denied, you have the right to appeal the Department's decision by submitting an appeal to the address below, no later than 90 calendar days from the date of this letter. Using the FOIA Public Liaison or OGIS services described above does not affect your right or the deadline to file an appeal. Your appeal must be in writing and must include a detailed statement of all legal and factual bases for the appeal. It should be accompanied by this letter, a copy of your initial letter of request, and any documentation that supports the argument you wish the Department to consider in making an administrative determination on your appeal. You may submit your appeal by:

Mail: Appeals Office  
Office of the Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW, LBJ 7W104  
Washington, DC 20202-4536

Online Form: [www.ed.gov/policy/gen/leg/foia/foia-appeal-form.pdf](http://www.ed.gov/policy/gen/leg/foia/foia-appeal-form.pdf)

E-mail: [EDFOIAappeals@ed.gov](mailto:EDFOIAappeals@ed.gov)

Fax: 202-401-0920

Sincerely,  
ED FOIA Service Center  
Office of the Secretary



December 6, 2023

***SENT VIA E-MAIL***

U.S. Department of Education  
Office of the Executive Secretariat  
FOIA Service Center  
ATTN: FOIA Public Liaison  
400 Maryland Avenue, SW, LBJ 7W106A  
Washington, DC 20202-4536  
EDFOIAManager@ed.gov  
Robert.wehausen@ed.gov

Re: Freedom of Information Act Request Regarding Grand Canyon University  
FOIA Request No. 24-00550-F

Dear FOIA Public Liaison:

The Goldwater Institute (“Institute”) submitted a public records request to the U.S. Department of Education (“DOE”) through its online portal on December 4, 2023. Attachment 1. On December 5, 2023, we received a response from the ED FOIA Service Center, Office of the Secretary, acknowledging the request and assigning our request the number, 24-00550-F. Attachment 2. The letter also advised that the current average request processing time is 185 business days.

As you know, the Freedom of Information Act (“FOIA”) requires your response within the statutory timeframe of twenty (20) working days. 5 U.S.C. § 552(a)(6)(A); *Aguirre v. U.S. Nuclear Regul. Comm’n*, 11 F.4th 719, 725 (9th Cir. 2021). If an agency fails to respond timely to a request for records, the requesting party is deemed to have exhausted their remedies. *Id.* (citing 5 U.S.C. § 552(a)(6)(C)(i)).

An agency may notify the requestor of “unusual circumstances” requiring an extension of this deadline. *Hajro v. U.S. Citizenship & Immigr. Servs.*, 811 F.3d 1086, 1092 (9th Cir. 2016) (citing 5 U.S.C. § 552(a)(6)(A), (B)). Unusual circumstances are defined within 5 U.S.C. § 552(a)(6)(B)(iii) and require written notice setting forth the unusual circumstances and the date in which a determination is expected. *Hart v. U.S. Dep’t of Health & Hum. Servs.*, 676 F. Supp.2d 846, 854 (D. Ariz. 2009). If the agency fails to make a timely determination, the requestor may proceed as if the request had been denied. *Id.* (citing 45 CFR § 5.35(a)).

FOIA Public Liaison

December 6, 2023

Page 2 of 2

The December 5 letter does not state the unusual circumstances that may permit an extension, nor does it provide the date by which a determination is expected.

We write to inform you that we intend to pursue all legal remedies available, including bringing an action in U.S. District Court to compel production if the agency does not provide a response within the statutory deadline of twenty (20) business days.

If you have any questions about this request or foresee any problems in fully releasing the requested records please contact me as soon as possible, I can be reached at (602) 465-5000 or [sskankey@goldwaterinstitute.org](mailto:sskankey@goldwaterinstitute.org).

Sincerely,



Mrs. Stacy Skankey  
Staff Attorney  
Scharf-Norton Center for Constitutional Litigation  
at the Goldwater Institute



December 4, 2023

***SENT VIA E-MAIL & U.S. MAIL***

U.S. Department of Education  
Office of the Executive Secretariat  
FOIA Service Center  
400 Maryland Avenue, SW, LBJ 7W106A  
Washington, DC 20202-4536  
ATTN: FOIA Public Liaison

Re: Freedom of Information Act Request Regarding Grand Canyon University

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FOIA Public Liaison

December 4, 2023

Page 2 of 2

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Sincerely,



Mrs. Stacy Skankey  
Staff Attorney  
Scharf-Norton Center for Constitutional Litigation  
at the Goldwater Institute



**United States Department of Education**

Office of the Secretary

FOIA Service Center

December 5, 2023

Stacy Skankey  
Staff Attorney  
Goldwater Institute  
500 E Coronado Rd  
Phoenix, AZ 85004

RE: FOIA Request No. 24-00550-F

Fee Waiver Requested: No

Expedited Processing Requested: Yes

Dear Stacy Skankey:

This is an acknowledgment of your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated December 4, 2023, and received in the Department of Education's (Department) FOIA Service Center (FSC) on December 5, 2023. You requested the following:

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Your request for expedited processing is denied because you do not qualify under one of the two required categories: (1) Circumstances in which the lack of expedited treatment could pose an imminent threat to life or physical safety, or (2) You are a person primarily engaged in disseminating information and there exists an urgency to inform the public concerning actual or alleged Federal Government activity.

#### Additional Assistance

You have the right to seek assistance and/or dispute resolution services from the Department's FOIA Public Liaison or the Office of Government Information Services (OGIS). The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes. OGIS, which is outside the Department, offers ombuds services, including dispute resolution, to assist FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Please note, OGIS's assistance does not replace the administrative appeal process described below. You may contact the FOIA Public Liaison or OGIS at:

FOIA Public Liaison  
Office of the Secretary  
U.S. Department of Education  
400 Maryland Ave., SW, LBJ 7W104  
Washington, DC 20202-4500

Email: [robert.wehausen@ed.gov](mailto:robert.wehausen@ed.gov)

Phone: 202-205-0733

Fax: 202-401-0920

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road, OGIS  
College Park, MD 20740-6001  
Email: [OGIS@nara.gov](mailto:OGIS@nara.gov)  
Phone: 202-741-5770 or 1-877-684-6448

If expedited processing and/or a fee waiver was requested and denied, you have the right to appeal the Department's decision by submitting an appeal to the address below, no later than 90 calendar days from the date of this letter. Using the FOIA Public Liaison or OGIS services described above does not affect your right or the deadline to file an appeal. Your appeal must be in writing and must include a detailed statement of all legal and factual bases for the appeal. It should be accompanied by this letter, a copy of your initial letter of request, and any documentation that supports the argument you wish the Department to consider in making an administrative determination on your appeal. You may submit your appeal by:

Mail: Appeals Office  
Office of the Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW, LBJ 7W104  
Washington, DC 20202-4536

Online Form: [www.ed.gov/policy/gen/leg/foia/foia-appeal-form.pdf](http://www.ed.gov/policy/gen/leg/foia/foia-appeal-form.pdf)

E-mail: [EDFOIAappeals@ed.gov](mailto:EDFOIAappeals@ed.gov)

Fax: 202-401-0920

Sincerely,  
ED FOIA Service Center  
Office of the Secretary





UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

FOIA Service Center

December 22, 2023

Stacy Skankey  
Staff Attorney  
Goldwater Institute  
500 E Coronado Rd  
Phoenix, AZ 85004

FOIA Request No. 24-00550-F

Dear Stacy Skankey:

This letter is in response to your request dated December 4, 2023, requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was received in this office on December 5, 2023. Your request was assigned to the appropriate office within the Department to search for documents that may be responsive to your request.

You have asked for a waiver of all fees, including duplication fees, associated with processing your request based on your requester category as Other requester. Based on the information you submitted for a fee waiver, that request is granted.

You have the right to seek further assistance from the Department's FOIA Public Liaison, Robert Wehausen. The Department's FOIA Public Liaison can be reached by:

Mail: FOIA Public Liaison  
Office of the Secretary  
U.S. Department of Education  
400 Maryland Ave., SW, LBJ 7W104  
Washington, DC 20202-4500  
E-mail: [Robert.Wehausen@ed.gov](mailto:Robert.Wehausen@ed.gov)  
Phone: 202-205-0733  
Fax: 202-401-0920

If you have any questions, or would like the original signed copy of this letter, please contact the FOIA Requester Service Center at (202) 401-8365 or via e-mail at [EDFOIAManager@ed.gov](mailto:EDFOIAManager@ed.gov).

Sincerely,

Sandra Lewandowski  
Government Information Specialist